

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:13CR3121
)	
v.)	
)	
JOSEPH J. BENZ,)	MEMORANDUM
)	AND ORDER
Defendant.)	
_____)	

I have carefully read the briefs of the parties. For the reasons expressed in my Memorandum and Order (filing no. 107), and for the reasons expressed in the Verdict and Findings of Fact Pursuant to Fed. R. Crim. P. 23(c) (specifically paragraphs D through I), I find and conclude that there are unusual and compelling reasons to vacate the greater, rather than the lesser, conviction. Therefore,

IT IS ORDERED that the conviction for the greater offense, Count I of the Indictment alleging a violation of 18 U.S.C. § 2252A(a)(2), is herewith vacated and held for naught. Therefore, the Probation Officer shall prepare a presentence report regarding Count II only. My chambers shall provide J.R. Holder with a copy of this Memorandum and Order.

DATED this 1st day of July, 2016.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge